

**IN THE INCOME TAX APPELLATE TRIBUNAL  
COCHIN BENCH**

**BEFORE SHRI INTURI RAMA RAO, AM  
AND SHRI SONJOY SARMA, JM**

**ITA No. 381/Coch/2025  
Assessment Year: 2020-21**

Arun Bose ..... Appellant  
Pulparambil House, Rajakumari  
Aruvilanchal P.O., Idukki 685619  
[PAN: BDPPP4937G]

vs.

The Income Tax Officer, Ward 1 & TPS ..... Respondent  
Mahima Towers, Temple Road, Thodupuzha

Appellant by: Shri Mathew Joseph, CA  
Respondent by: Shri Suresh Sivanandan, CIT-DR

Date of Hearing: 04.06.2025  
Date of Pronouncement: 30.06.2025

**ORDER**

**Per: Inturi Rama Rao, AM**

This appeal filed by the assessee is directed against the order of the Principal Commissioner of Income Tax-1, Kochi dated 28.02.2025 for Assessment Year (AY) 2020-21.

2. Brief facts of the case are that the appellant is an individual engaged in the business of cardamom, pepper, cherry coffee, lemon grass, etc. The return of income for AY 2020-21 was filed on 31.03.2021 declaring total income of Rs. 8,68,510/-. Against the said

return of income, the assessment was completed by the ITO, Ward-1 & TPS, Thodupuzha (hereinafter called "the AO") vide order dated 13.09.2022 passed u/s. 143(3) r.w.s. 144B of the Income Tax Act, 1961 (the Act) at a total income of Rs. 3,59,69,688/-. Subsequently, on examination of the assessment records, the Pr. CIT formed an opinion the assessment order is erroneous and prejudicial to the interests of Revenue for the reason that the AO made addition of Rs. 50,01,695/- disbelieving agricultural income instead of gross receipt of Rs. 76,58,500/- and should have been taxed the same u/s. 69A r.w.s. 115BBE of the Act and the AO has failed to verify this aspect. Accordingly, a show cause notice was issued on 31.01.2024 proposing to revise the assessment order u/s. 263 of the Act. In response to the show cause notice, the appellant had filed detailed explanation stating that the Pr. CIT had no jurisdiction to invoke the powers u/s. 263 of the Act. After considering the submissions made by the appellant, the Id. Pr. CIT had proceeded to hold that since the appellant had failed to substantiate the agricultural income, the entire gross receipts of Rs. 78,58,500/- should be added back as unexplained income and invoked section 115BBE of the Act and also held that the expenditure claimed to earn agricultural income should be added as unexplained expenditure u/s. 69C of the Act. Accordingly, set aside the assessment order for redoing the assessment after giving an opportunity of hearing to the appellant.

3. Being aggrieved, the appellant is in appeal before this Tribunal in the present appeal.

4. The learned A.R. submitted that the Id. Pr. CIT ought not have exercised jurisdiction u/s. 263, inasmuch as, the issue sought to be revised by the Pr. CIT is subject matter of appeal before the CIT(A). Further, it is submitted that the Id. CIT ought not have held that the entire gross receipts should be assessed to tax ignoring the fact that what is claimed as agricultural income alone can be taxed, if at all addition is warranted. It is further submitted that the expenditure incurred to earn agricultural income cannot be added as unexplained expenditure because there is no expenditure incurred outside the books of account.

5. On the other hand, the Id. CIT-DR, placing reliance on the on the order of the CIT passed u/s. 263 of the Act submitted that no interference is called for.

6. We heard the rival submissions and perused the material on record. The Parliament had conferred the power of revision on the Commissioner of Income Tax u/s 263 of the Act in case the assessment order passed is erroneous and prejudicial to the interests of revenue. In order to invoke the power of revision, the above two conditions are required to be satisfied cumulatively. References in this regard can be made to the decision of the Hon'ble Supreme Court in the case of Malabar

Industrial Co. Ltd. vs. CIT, 243 ITR 83 (SC) and in the case of CIT vs. Max India Ltd., 295 ITR 282 (SC). The error in the assessment order should be one that it is not debatable or plausible view. In a case where the Assessing Officer examined the claim took one of the plausible views, the assessment order cannot be termed as an “erroneous”.

7. In the present case, the Pr. CIT sought to revise the assessment solely on the ground that the entire agricultural receipts should be assessed as income of the appellant for failure of the assessee to discharge the onus of proving genuineness of the agricultural income, instead of net agricultural income claimed by the appellant. Undoubtedly, this aspect had not been examined by the AO. However, the view of the Id. Pr. CIT that entire gross receipts should have been taxed as income of the appellant is untenable in the eyes of law. What can be taxed as income is only the net agricultural income, not the gross receipts. Similarly, the expenditure claimed to earn the agricultural income of Rs. 26,56,805/- cannot be brought to tax as unexplained expenditure, inasmuch as, no expenditure was incurred by the appellant outside the books of account and the source of which remained unexplained. Therefore, it can be safely conclude that the Pr. CIT took impossible view on the items which have been subject matter of revision u/s. 263 of the Act. It is settled position of law that the power of revision cannot be exercised simply because the Commissioner of Income Tax took a different

view of the subject matter of revision. In the circumstances, we are of the considered opinion that the Pr. CIT ought not have exercised the power of revision vested with him u/s. 263 of the Act, inasmuch as, there is no error in the assessment order passed by the AO.

8. In the result, the appeal filed by the as stands allowed.

Order pronounced in the open court on 30<sup>th</sup> June, 2025.

Sd/-  
**(SONJOY SARMA)**  
**JUDICIAL MEMBER**

Sd/-  
**(INTURI RAMA RAO)**  
**ACCOUNTANT MEMBER**

Cochin, Dated: 30<sup>th</sup> June, 2025

n.p.

Copy to:

1. The Appellant
2. The Respondent
3. The Pr. CIT concerned
4. The Sr. DR, ITAT, Cochin
5. Guard File

By Order

Assistant Registrar  
ITAT, Cochin